

## DEFINITIONS

Employee, as used in this policy, is limited to employees who entered into the Non-Tobacco Use Agreement and Request for Deductible Reduction when enrolling for benefits under one of the State's health care plans.

Reasonable suspicion shall be deemed to exist when any of the following occurs:

- Observable behaviors, such as direct observation of tobacco use or possession and/or physical manifestations of tobacco use such as lingering tobacco smell on the employee's person;
- Report by a State employee that an employee is using tobacco
- The appearance of tobacco use or possession including tins, pouches, mint leaves and any substance that mimics a tobacco product.

Although reasonable suspicion does not require certainty, mere "hunches" are not sufficient to meet this standard. Any state employee who reports tobacco use without having a reasonable basis in fact may be subject to disciplinary action for false reporting.

Non-Tobacco Use Agreement and Request for Deductible Reduction form is the employee's agreement not to use tobacco products during the plan year, to submit to testing, and state the penalties for violating the agreement.

## RESPONSIBILITIES

Employees are responsible for:

- honoring their commitment not to use tobacco products during the plan year covered by their signed agreement; and
- promptly reporting to the Benefits Division of State Personnel if they are unable to remain tobacco free so that their deductible can be re-instated; and
- submitting to tobacco testing upon request; and
- abiding by the provisions of any penalties issued for violation of the agreement including payment of claims unnecessarily covered by the employee's health plan and for which the full deductible amount is applicable.

State Personnel Department is responsible for:

- administering the tobacco testing program; and
- recommending appropriate action, including discipline, for violations of the Non-Tobacco Use Agreement.

Agency Management is responsible for:

- conducting any necessary predeprivation proceedings and imposing appropriate disciplinary action for violation of the Non-Tobacco Use Agreement.

## PROCEDURES for TESTING PROGRAM

The State of Indiana will contract with a third party administrator to randomly select a sample of employees for oral fluids testing to identify the presence of nicotine in saliva. Testing dates and locations will be scheduled based upon the results of the random selection and the selected

employees will be required to perform the mouth-swab collection procedure in the presence of the State's testing representative. The employee will then seal his/her sample in a tamper proof plastic pouch and give this pouch to the State's testing representative. The representative will then send all collected samples to a designated laboratory for testing. Positive samples will then be confirmed by a second laboratory test known as liquid chromatography tandem mass spectrometry.

The results, both positive and negative, will then be sent to the State's testing representative who will contact each employee whose test resulted in a confirmed positive result. The employee's full deductible will be re-instated for the remainder of the year. In addition, dishonesty will be subject to disciplinary action, up to and including termination.

Employees reported by reasonable suspicion will be tested with the same testing procedures as those employees selected randomly.

<b>REFERENCES</b>
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State's Health Care Plans

<b>ATTACHMENTS</b>
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[Non-Tobacco Use Agreement and Request for Deductible Reduction form](#)